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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,515	03/07/2001	Kenneth L. Levy	LevyXR	5301
23735	7590	11/02/2005	EXAMINER	
DIGIMARC CORPORATION			SONG, HOSUK	
9405 SW GEMINI DRIVE			ART UNIT	PAPER NUMBER
BEAVERTON, OR 97008			2135	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/801,515	LEVY, KENNETH L.	
	<b>Examiner</b> Hosuk Song	<b>Art Unit</b> 2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 September 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 18-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 18-25 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 18,20-21,23-25 remain rejected under 35 U.S.C. 102(e) as being anticipated by Takahashi et al(US 6,882,728).

Claim 18: Takahashi disclose (a)examining the auxiliary data for copy control data in (col.2,lines 41-44). Takahashi disclose (b) examining the picture data for a digital watermark in (fig.1). Takahashi disclose making a copy control based on results (a) and (b) and an improvement wherein the digital watermark has only two states:present or absent in (fig.2).

Claim 20: Takahashi disclose auxiliary data comprises header data in (fig.7)

Claim 21: Kori disclose auxiliary data comprises plural bits of copy control data in (col.3,lines 11-16)

Claims 23,25: Takahashi disclose encoding a digital watermark in the picture data in (col.5,lines 40-42). Takahashi disclose including copy control data in the auxiliary data in (col.2,lines 41-49). Takahashi disclose compliant decoder device can make a copy control decision based on examination of copy control data in conjunction with examination of digital watermark in (fig.1;col.lines 39-41). Takahashi disclose improvement wherein the digital watermark has only two states:present or absent in (fig.2).

Claim 24:Takahashi disclose auxiliary data comprises header data in (fig.9)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (US 6,882,728).

Claim 19: Takahashi does not specifically disclose prohibiting copying of the video content if the copy control data is absent and the digital watermark is present. It would have been obvious to person of ordinary skill in the art to modify invention of Takahashi to prohibit copying of the video content if the copy control data is absent and the digital watermark is present in order to conserve data processing time and minimize data errors such that if the user wish to strictly prohibit data from copying, user would simply insert watermark into the data without control data. This allows speedy data transmission and less prone to data errors.

Claim 22: Takahashi disclose examining the auxiliary data for control data in (col.2,lines 41-44). Takahashi does not specifically disclose prohibiting copying of the video content if the copy control data is absent and the digital watermark is present. It would have been obvious to person of ordinary skill in the art to modify invention of Kori to prohibit copying of the video content if the copy control data is absent and the digital watermark is present in order to conserve data processing time and minimize data errors such that if the user wish to strictly prohibit data from copying, user would simply insert watermark into the data without control data. This allows speedy transmission and less prone to data errors.

*Response to Applicant's arguments*

3. Previous rejections based on the Linnartz and Ezaki patents are withdrawn in view of Applicant's submission of pre-appeal brief request for review. However, newly discovered prior art has necessitated new grounds of rejections. The new grounds of rejections are presented above.

*USPTO Contact information*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hosuk Song whose telephone number is 571-272-3857. The examiner can normally be reached on Tue-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hosuk Song  
Primary Examiner  
Art Unit 2135